

SUMMARY ANALYSIS OF AMENDED BILL

Author: Assy. Rev. & Tax Comm. Analyst: Jeani Brent Bill Number: AB 1040

Related Bills: SB 1106 (1997) Telephone: 845-3410 Amended Date: 06/30/97

Attorney: Doug Bramhall

Sponsor:

SUBJECT: Court Debt/Financial Corporation Offset/Corporation Definition/Bank
Information Reporting/Bonds/Credit Election

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect department's suggestions previously submitted.

X

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

X

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.

OTHER - See comments below.

SUMMARY OF AMENDMENT

The June 30, 1997, amendments accepted language proposed by the department to double-join this bill and SB 1234 (relating to conformity to federal entity classification regulations) to avoid chaptering problems since both bills would make changes to Bank and Corporation Tax Law Section 23038. The amendments also made grammatical and minor technical changes.

Except for the amendments noted above and the Technical Consideration included below, the department's analyses of the bill as amended March 31, 1997, April 21, 1997, and May 23, 1997, still apply.

SUMMARY OF BILL

This bill, sponsored by the Franchise Tax Board, would do the following:

1. Allow the department to receive federal information return data regarding the discharge or cancellation of indebtedness.
2. Create a reporting requirement for payers of interest or dividends from bonds issued by another state that are exempt from federal taxation.

DEPARTMENTS THAT MAY BE AFFECTED:

____ STATE MANDATE

____ GOVERNOR'S APPOINTMENT

Department Director Position: ____ S ____ O ____ SA ____ OUA ____ N ____ NP ____ NA ____ NAR ____ PENDING		Agency Secretary Position: ____ S ____ O ____ SA ____ OUA ____ N ____ NP ____ NA ____ NAR DEFER TO _____		GOVERNOR'S OFFICE USE Position Approved ____ Position Disapproved ____ Position Noted ____ By: _____ Date: _____	
Legislative Director Johnnie Lou Rosas		Date 7/17/97		Agency Secretary Date	

3. Allow the state or county to refer to the department for collection court-ordered amounts that are associated with court-ordered fines, penalties, forfeitures or restitution orders. This provision also would allow restitution orders due a victim to be referred to the department for collection, but only if (1) the account is referred by a governmental entity that has the authority to collect on behalf of the victim, and (2) the authorized governmental entity voluntarily agrees to refer the debt to the department for collection and agrees to other administrative duties relating to account referrals and collection distributions.
4. Modify the definition of "corporation" to include banks, unless specifically provided otherwise; provide specific language to exempt banks from existing provisions of the Administration of Franchise and Income Tax Laws and Regulations (AFITL) and the Bank and Corporation Tax Law (B&CTL) for which intentional differences between the treatment of corporations and banks is clear, such as the corporation income tax; and replace the phrase "bank or corporation" with the term "corporation" throughout the B&CTL and the AFITL. The department's policy of not applying Section 24411 to banks would be reversed, allowing a foreign bank to pay exempt dividends to a domestic water's-edge taxpayer.
5. Remove the election provision from the Los Angeles Revitalization Zone (LARZ) sales or use tax credit, the Local Agency Military Base Recovery Area (LAMBRA) sales or use tax credit and the LAMBRA hiring credit and replace it with a provision limiting the taxpayer to one credit.
6. Amend Chapter 952 of Statutes of 1996, which enacted SB 715, to reflect that its provisions apply to taxable or income years beginning on or after January 1, 1997.
7. Repeal sections referring to offset provisions for personal property taxes or license fees that are obsolete, and delete references to those sections contained in other sections (B&CTL).
8. Delete an obsolete reference that requires all apportioning taxpayers to maintain specified information.
9. Change Section 19340 of the AFITL to reflect that when an overpayment is credited against any amount due, any interest on that overpayment also will be credited against any amount due. This provision also would include a reference to "this part," which is the AFITL.
10. Correct a reference to Section 19276 of the AFITL contained in the Business and Professions Code and the Insurance Code to reflect that section's renumbering.
11. Delete an unnecessary and redundant reference to Revenue and Taxation Code (R&TC) Section 23097.
12. State the intent of the Legislature to replace references to Standard Industrial Classification Manual published by the United States Office of Management and Budget, 1987 edition, with code section references to the North American Industry Classification System (NAICS), expected to be published in 1997.

A technical change proposed by Legislative Counsel in the June 30, 1997, amendment would insert the term "full-time" preceding the word "jobs" in the LAMBRA net operating loss provision that defines "taxpayer." Because the phrase "full-time jobs" is not contained in any other existing LAMBRA code sections, including it here could cause confusion. Amendment 1 would remove this term.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1040
As Amended June 30, 1997

AMENDMENT 1

On page 151, line 11, strikeout "full-time".